## REMARKS

After entry of this Response, claims 63 and 69-74 will be pending.

Claims 63 and 69 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kerns (U.S. Patent No. 6,144,748, hereafter the '748 patent) in view of Ishige et al. (U.S. Patent No. 5,835,610, hereafter the '610 patent) or Bren et al. (U.S. Patent No. 6,633,645, hereafter the '645 patent). Claim 70 stands rejected under 35 U.S.C. 103(a) as being unpatentable over the '748 patent in view of the '610 patent or the '645 patent, further in view of Taenzer (U.S. Patent No. 5,751,820, hereafter the '820 patent). Claims 71-74 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the '748 patent in view of the '610 patent or the '645 patent, further in view of Anderson (U.S. Patent No. 5,721,783, hereafter the '783 patent). The rejections of claims 64-68 and 75-100 are considered moot in light of the cancellation of these claims.

Claim 63, the only independent claim currently pending, has been amended to further clarify the distinctions between the claimed device and the prior art. As amended, claim 63 specifically recites (i) that the hearing aid microphone is used with the hearing aid and with the cell phone (second signal path); (ii) that the hearing aid speaker is used with the hearing aid and with the cell phone (second signal path); (iii) the second signal path is bi-directional; (iv) a detector is included that detects either a ring condition or the absence of an active signal in the second signal path for a predetermined period of time; and (v) an automatic switch that automatically selects either the first signal path or the second signal path in response to the condition detected by the detector. Applicants contend that the cited art, alone or in combination, do not teach all of these features.

The most important of the distinctions noted above is the ability to detect cell phone activity, i.e., a ring signal or active use, and automatically couple the device's microphone and speaker to the cell phone. None of the cited art discloses this feature. Specifically:

'748 Patent (Kerns)

The Office Action notes that the '748 patent does not teach the ability to automatically switch from one state to another (page 2, last paragraph). Applicants agree.

'610 Patent (Ishige)

On page 3, line 1, the Office Action states that the '610 patent teaches automatic switching. Later, on page 5, 3rd full paragraph, the Office Action states that the '610 patent "fails to teach in detail the possibility of automatically changing states from one state to another". Applicants cannot resolve these two, seemingly incongruous statements as it is unclear how a reference can teach something while failing to teach "the possibility" of the same thing.

Applicants respectfully submit that the '610 patent does not, in fact, teach automatic switching. Although hearing aid 1 includes a switch 11, Applicants cannot find any description of switch 11 being automatic, much less an automatic switch that is coupled to a detector, the detector detecting a ring condition or the absence of a detected active signal in the second signal path for a predetermined period of time. As disclosed, switch 11 (assumably a manual switch) is only coupled to signal receiver 14, signal processor 13 and amplifier 22.

Accordingly Applicants submit that the '610 does not teach or suggest a critical feature of the claimed invention.

'645 Patent (Bren)

The '645 patent is cited for teaching a hearing aid with an automatic telephone switch.

Although the hearing aid disclosed in the '645 patent includes an automatic switch, the disclosed switch changes state "in the presence of the telephone handset magnet 22 which produces a constant magnetic field". (Column 3, lines 30-31). In contrast to the presently claimed invention, switching circuit 40 is not coupled to a detector, the detector detecting a ring condition or the absence of a detected active signal in the second signal path for a predetermined period of time (i.e., switching circuit 40 would never change states based on the ring condition or the absence of a detected active signal).

Accordingly Applicants submit that the '645 does not teach or suggest a critical feature of the claimed invention.

'820 Patent (Taenzer)

The '820 patent is not cited for teaching an automatic switch. Rather the '820 patent is cited for teaching a "hearing aid device which can wake up from a sleep state in

response to a telephone call in part by using a detector, processor and so forth". (Page 5, 4th full paragraph).

Although the '820 patent does teach a hearing aid that can wake up from a sleep state in response to a telephone call, the '820 patent does not teach an automatic switch and detector that allow a hearing aid to switch from a hearing aid system (first signal path) to being coupled to a cell phone (second signal path). Additionally, Applicants note that the '820 patent does not teach detecting the absence of a detected active signal.

Accordingly Applicants submit that the '820 does not teach or suggest a critical feature of the claimed invention.

'783 Patent (Anderson)

The '783 patent is not cited for teaching the ability to automatically switch from one state to another, rather the '783 patent is cited for teaching "a hearing aid with means which can be used in controlling signals including hearing aid signals and external communications including telephone signals." (Page 4-page5). Applicants cannot find any teaching of a switching means in the '783 patent similar to that presently claimed.

As none of the cited art teaches or suggests an automatic switch as presently claimed, Applicants contend that claim 63 and all claims that depend from claim 63 (i.e., claims 69-74) are novel and patentable over the cited art. Accordingly, Applicants request the withdrawal of the rejection of these claims and early allowance. If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned at (415) 393-2404.

Respectfully submitted,

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By: _____
David G. Beck
Registration No.: 37,776

Bingham McCutchen, LLP
Three Embarcadero Center, Suite 1800
San Francisco, California 94111
Telephone: (415) 393-2000 Telefax: (415) 393-2286